

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
FORTIS CORPORATE INSURANCE,

Plaintiff,

- against -

TOTAL QUALITY LOGISTICS, INC.,

Defendant.
-----X

ELECTRONICALLY FILED

DOC #:

DATE FILED: 7-23-08

07 Civ. 3731 (VM)

CONDITIONAL

ORDER OF DISCONTINUANCE

VICTOR MARRERO, United States District Judge.

Counsel for plaintiff, on behalf of the parties, having notified the Court, by letter dated July 23, 2008, a copy of which is attached, that the parties have reached an agreement in principle to settle this action without further litigation, it is hereby

ORDERED, that this action be conditionally discontinued without prejudice and without costs; provided, however, that within thirty (30) days of the date of this Order, the parties may submit to the Court their own Stipulation of Dismissal for the Court to So Order. Otherwise, within such time counsel for plaintiff may apply by letter for restoration of the action to the active calendar of this Court in the event by the deadline indicated the settlement is not consummated. Upon such notification, the defendant shall continue to be subject to the Court's jurisdiction, the Court shall promptly reinstate the action to its active docket and the parties shall be directed to appear before the Court, without the necessity of additional process, on a date within thirty days of the

plaintiff's application for reinstatement, to schedule remaining pre-trial proceedings and/or dispositive motions, as appropriate. This Order shall be deemed a final discontinuance of the action with prejudice in the event plaintiff has not requested restoration of the case to the active calendar within such period of time.

The conference scheduled for July 25, 2008 is canceled but shall be rescheduled as set forth above in the event plaintiff notifies the Court that the parties' settlement was not effectuated and that such conference is necessary to resume pretrial proceedings herein.

The Clerk of Court is directed to withdraw any pending motions and to close this case.

SO ORDERED.

Dated: NEW YORK, NEW YORK
23 July 2008

A handwritten signature in black ink, appearing to read 'Victor Marrero', is written over a horizontal line.

VICTOR MARRERO
U.S.D.J.

BADIAK & WILL, LLP

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July 23, 2008

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Honorable Victor Marrero
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

RE: Fortis Corporate Insurance a/s/o Empire Resources, Inc. v.
Total Quality Logistics, Hills Trucking, Inc.
Index No.: 07 Civ. 3731 (VM)
Our Ref.: 07-E-002-RB/LS

Dear Honorable Marrero:

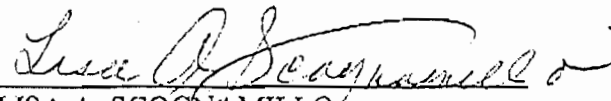
We represent plaintiff in the captioned matter.

A Settlement Conference is currently scheduled for **Friday, July 25, 2008 at 2:30 p.m.**
However, we are pleased to report that the parties have settled their dispute.

We thank the Court for its assistance and kind attention to this matter.

Respectfully submitted,

BADIAK & WILL, LLP


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LA3/lmw

cc: See Attached List

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